



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Lm

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/631,355 08/02/00 NISHI

T 1046.1028D2/

021171
STAAS & HALSEY LLP
700 11TH STREET, NW
SUITE 500
WASHINGTON DC 20001

MMC2/0522

EXAMINER

SHAHER, R

ART UNIT	PAPER NUMBER
----------	--------------

2872

DATE MAILED:

05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/631,355

Applicant(s)

NISHI ET AL

Examiner

R.D. SHAFER

Group Art Unit

2872

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 2/28/01

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 23-31 is/are pending in the application.

Of the above claim(s) 24, 25, 27, 29 AND 31 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 23, 26, 28 AND 30 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2/2

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

Art Unit: 2872

1 Applicant's election without traverse of invention II (claims 25,26,28 and 30) and species "B" in Paper No. 6 is acknowledged.

2 Claims 24,25,27,29 and 31 are withdrawn from further consideration by the examiner, 37
CFR 1.142(b) as being drawn to a non-elected invention and species. Election was made
without traverse in Paper No. 6.

3 Claims 23,26,28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 23, line 9 is vague, indefinite and fails to provide proper nexus with respect to the other elements of the claim in such a manner so as to present a complete and operative device.

In claim 23, lines 17-18 and claim 26, lines 2-3, the use of the language "said polarization controller" is vague, indefinite and/or confusing. It is unclear whether the polarization controller recited in claim 23, line 4 or the polarization controller recited in claim 23, line 14 is providing antecedent basis for the above mention language.

In claim 23, lines 21-22, the use of the language "wherein...controllers" is vague, indefinite and/or confusing. It is unclear to the examiner what applicant is intending by the above mentioned language.

In claim 26, line 2, the use of the language "said element" is vague, indefinite and/or confusing. It is unclear whether the element recited in claim 23, line 7 or the element recited in claim 23, line 17 is providing antecedent basis for the above mentioned language.

Art Unit: 2872

In claim 28, lines 3-4, "the I-th input" and "the (I-1)th and (I+1)th output" each lack proper antecedent basis.

In claim 30, line 4, "the I-th input" and "the (I-1)th" each lack proper antecedent basis.

4 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 26, 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by McMahon ('543).

To the extent the claims are definite, McMahon discloses an optical switch comprising a plurality of polarization control optical switches (81-84) and (85-88), wherein each polarization control switch includes a polarization controller (81,85), and element (82,86), a delay plate (83,87) and a second element (84,88) and a final polarization control switch including a polarization controller (89) and an element (42) when viewed from left to right or alternatively wherein each polarization control switch includes a polarization controller (89,85), an element (88,84), a delay plate (87,83), and a second element (86,82) and a final polarization control switch including a polarization controller (81) and an element (18) when viewed from right to left. Note figures 7a-8b.

Application/Control Number: 09/631,355

Page 4

Art Unit: 2872

5 Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

Shafer/tr *PLS*

5-14-01

Ricky D. Shafer
RICKY D. SHAFER
PATENT EXAMINER
ART UNIT ~~2872~~ 2872